

STATE OF GEORGIA
COUNTY OF FULTON

RESOLUTION APPROVING LETTER OF INTENT BETWEEN THE CITY OF SANDY SPRINGS AND FIDELITY BANK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE LETTER OF INTENT; AND AUTHORIZING THE CITY MANAGER AND THE CITY ATTORNEY TO NEGOTIATE AND EXECUTE A FORMAL AGREEMENT WITH FIDELITY BANK, BASED ON THE TERMS OF THE LETTER OF INTENT

WHEREAS, in June 2014, City Council selected a team consisting of Carter & Associates, LLC and Selig Enterprises, Inc. ("Carter/Selig") to work with the City to develop the residential and retail components of the City Center project ("Project"); and

WHEREAS, City Council further authorized the City Manager to negotiate an agreement to begin Carter/Selig's work on the Project; and

WHEREAS, Carter/Selig formed a limited liability company for use in the private development component of the Project, known as "Sandy Springs City Center, LLC" ("Developer"); and

WHEREAS, on August 18, 2015, City Council approved the basic form of a Real Estate Acquisition Agreement ("Acquisition Agreement") between the City and the Developer; and

WHEREAS, one of the City's obligations pursuant to the Acquisition Agreement is the resolution of a certain easement located on the property to be conveyed to the Developer, which easement is for eight (8) parking spaces ("Easement") in favor of Fidelity Bank ("Bank"), which Bank is located at the northwesternmost corner of the Project site; and

WHEREAS, in order to release the Easement to convey clear title to the Developer, the City intends to reconfigure the Bank site to construct additional parking spaces to replace the parking spaces to be released from the Easement; and

WHEREAS, the cost of such reconfiguration is estimated by City consultants to be approximately \$250,000.00; and

WHEREAS, the City and the Bank have negotiated the terms of the attached Letter of Intent ("LOI"), which provides for the reconfiguration of the Bank site and the release of the Easement; and

WHEREAS, the LOI is not a contract, but will form the basis for a detailed formal agreement between the City and the Developer relating to the subject matter of the LOI; and

WHEREAS, the City Manager and City Attorney request Council to approve the LOI, enabling the parties to move forward towards finalizing a formal agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy Springs, Georgia, while in regular session on October 6, 2015, at 6:00 p.m. as follows:

1. The attached LOI between the City and the Bank is hereby approved in basic form, and the City Manager is hereby authorized to execute the same; and

**ATTACHMENT
LETTER OF INTENT**



October 6, 2015

Fidelity Bank
ATTN: Mr. James B. Miller, Jr., Chairman
3490 Piedmont Road NE
Suite 1500
Atlanta, Georgia 30305

Dear Mr. Miller:

This letter of intent ("Letter of Intent") confirms the mutual intentions of the City of Sandy Springs ("City") and Fidelity Bank ("Bank") with respect to the potential transaction more fully described herein ("Transaction"). The purpose of the Transaction is generally to reconfigure certain components of the Bank and the site on which the Bank is located ("Bank Site") to integrate them with the development of Sandy Springs City Center ("Project") and to release a certain parking easement located on City property for the benefit of the Bank.

1. Agreement. This Letter of Intent summarizes the current status of the negotiations between the City and the Bank with respect to the Transaction. Although it is the intent of the parties that negotiations proceed as stated herein, the terms are not binding on either party until a definitive agreement is completed ("Agreement"). In the event the Agreement is signed, the parties' obligations shall be subject in all respects to the satisfaction of the conditions in the Agreement.
2. Terms. The principal terms of the proposed Transaction are substantially as follows:
 - a. Bank Site. The Bank Site is a triangular parcel located at the northeasternmost point of the intersection of the southwesterly right-of-way line of Johnson Ferry Road and the easterly right-of-way line of Sandy Springs Circle, as described of record and generally illustrated on the Site Master Plan Schematic Design, prepared by Rosser and jB+a, consultants for the City, attached hereto as **Exhibit A**.
 - b. Parking. As depicted on Site Plan A, prepared by jB+a, dated September 25, 2015, attached hereto as **Exhibit B**, the City shall, at the City's expense:
 - i. Extend the southern curb boundary of the Bank Site two (2) feet to the south to allow additional back-up space for vehicles using parking spaces shown as numbers 11-17 on **Exhibit B** and grant to the Bank a permanent non-exclusive access easement over, on, upon, and across such extended area;
 - ii. Extend the southern curb boundary parking line of the Bank Site approximately twenty-one (21) feet to the east to accommodate two (2) additional parking spaces, shown as parking spaces numbers 11-12 on **Exhibit B** and grant to the Bank a permanent non-exclusive access easement over, on, upon, and across such extended area;

- iii. Reconfigure the curb on the eastern side of the Bank Site at the vehicle entrance by removing approximately six (6) feet of curbing on the northern side of the vehicle entrance;
- iv. Create three (3) additional parallel parking spaces along the northeast curb boundary, shown as parking spaces 8-10 on **Exhibit B**;
- v. Create two (2) additional parking spaces at the northern point of the Bank Site, shown as parking spaces 6-7 on **Exhibit B**. These parking spaces shall be prepared following construction of a retaining wall, which will vary from five (5) to six (6) feet in height;
- vi. Provide the Bank with up to four (4) parking passes for public street parking on the portion of Sandy Springs Circle adjacent to the Bank Site. These passes shall be used by the Bank as additional employee parking, as required.

The parties shall agree to take such action as may be necessary to document any easements or transfers of ownership that are required for resolution of parking and drive reconfigurations on the Bank Site.

- c. Release of Easement. In consideration of the City's reconfiguration of parking on the Bank Site and the related inducements set out in this Letter of Intent, the Bank shall agree to release the City and its property from further obligation with respect to the easement granted the Bank in January, 1981, by Warranty Deed recorded in Fulton County property records at Deed Book 7904, Page 21, for eight (8) parking spaces on the existing parking lot ("Easement"), as depicted on the property survey attached hereto as **Exhibit C**, prepared by Samuel G. Evans, Jr., dated December 16, 1980.
- d. Signage. Currently the Bank has a monument sign on the Johnson Ferry Road (northeast) side of the Bank Site and an internally illuminated pole sign on the Sandy Springs Circle (southwest) side of the Bank Site ("Signs"). The Signs are currently grandfathered under City ordinances, but it will be necessary to remove or relocate them due to City construction at the Project site and the reconfiguration of parking spaces on the Bank Site to accommodate additional parking for the release of the Easement. Therefore, the Bank and City shall agree that, subject to permit applications and applicable City ordinances, the Bank shall agree to (i) remove the internally illuminated pole sign currently in place on the Sandy Springs Circle (southwest) side of the Bank Site [Location "C" on **Exhibit A**] upon City permitting for placement of a lesser alternative monument sign of up to thirty-two (32) square feet at that location; and (ii) remove the monument sign located on the Johnson Ferry Road (northeast) side of the Bank Site to either relocate such sign or install a new alternative monument sign of up to thirty-two (32) square feet at a safe alternate location on the Bank Site along Johnson Ferry Road [Location "A" or "A-2" on **Exhibit A**]. The Bank's ability to utilize Location "A" on Exhibit "A" is subject to the City's ability to close the current stormwater detention facility at the northern point of the intersection of Johnson Ferry Road and Sandy Springs Circle and approval of the drainage coming into the Marsh Creek detention facility to be constructed on the northeast side of Johnson Ferry Road. In addition, the Bank may place along the existing driveway easement up to two (2) directional signs approximately two (2) square feet in size, including the name and/or logo of the Bank, to indicate point of entry and exit. All sign removal, relocation, installation and permitting shall be solely at the Bank's expense. The Bank shall provide to the City for incorporation into the Agreement renderings for any new monument sign and directional signs along with specific plan alternatives for the location of all signs, from which the Bank may determine final requested sign

locations for permitting once the retaining wall is completed. The City will provide preliminary review and comment for the requested locations and renderings.

- e. Transformer. The transformer serving the Bank Site which is currently located in the right-of-way on Sandy Springs Circle shall be relocated, at the City's expense, to the open space west of parking space numbered 1 on **Exhibit B**; however, this relocation is subject to the recommendations and approval of City engineers and Georgia Power.
 - f. Landscaping. The City shall agree that the height of streetscape plantings in the areas contiguous to the Bank Site will be of a variety that will not cause visual blockage of the Bank structure or signage when mature. The City may plant trees in the streetscape areas contiguous to the Bank Site; however, the City will not install block plantings that will obstruct the view of the Bank or signage. Prior to installation of streetscape plantings contiguous to the Bank Site, the City shall provide the Bank with such landscape plan for the Bank's comments.
 - g. Exclusivity. The City shall agree to give the Bank exclusivity for banking services at the Project site for the lesser of fifteen (15) years or until bank operations cease at the Bank Site, to the extent that the City shall not authorize or permit any other company primarily engaged in banking services typically provided by a federal or state chartered bank or credit union to establish a location utilizing its retail bank name or another name in association with offering retail or commercial banking, private banking, mortgage lending or wealth management services within the Project (whether or not such location constitutes a retail branch branch).
 - h. ATM. The City shall agree that the Bank may locate an ATM machine within the Project site. Any ATM location shall be subject to approval of the City and applicable City ordinances. The City will consider an ATM location within or on the outside face of a building or in a freestanding kiosk. If the Bank installs an ATM machine at the Project site, it shall agree to provide the City with competitive revenue-share compensation.
- 3. Term. This Letter of Intent shall remain in effect from the date hereof until the earlier of: (i) the effective date of the Agreement; and (ii) the date thirty (30) days after the date of this Letter of Intent ("Term").
 - 4. Good Faith Negotiations. During the Term, the parties will diligently and in good faith work to negotiate, finalize, and execute the Agreement.
 - 5. Choice of Law. This Letter of Intent shall be governed by the laws of the State of Georgia, without giving effect to any principles regarding conflict of laws.
 - 6. Terms and Conditions. The Agreement will contain the following terms and conditions: representations and warranties; indemnification and limitation of liability provisions; choice of law, venue, remedial, and procedural provisions; publicity and confidentiality requirements; and other terms and conditions usual and customary for such a transaction such as the Transaction contemplated by this Letter of Intent.
 - 7. Authorization. The City, subject to approval of Sandy Springs City Council at the next regular Council meeting, and the Bank are authorized to execute this Letter of Intent and to commence performance of their respective obligations as set forth in this Letter of Intent.

8. Expiration. This Letter of Intent be an offer by the City to be accepted by the Bank no later than 5:00 p.m., Eastern Time, on the date which is ten (10) days after the date of its execution by the City, as indicated below. Upon acceptance, this Letter of Intent shall be a binding understanding between the parties for preparing the Agreement and any other agreements and documents to fulfill the commitments of the parties stated herein.

CITY OF SANDY SPRINGS

By: _____
Printed Name: John McDonough
Title: City Manager
Date Executed: _____

FIDELITY BANK

By: _____
Printed Name: _____
Title: _____
Date Executed: _____

EXHIBIT A

**ILLUSTRATIVE SITE MASTER PLAN SCHEMATIC DESIGN
PREPARED BY ROSSER AND jB+a
Dated September 19, 2015**

EXHIBIT A

Sandy Springs City Center
Illustrative Site Master Plan
Schematic Design June 4, 2015

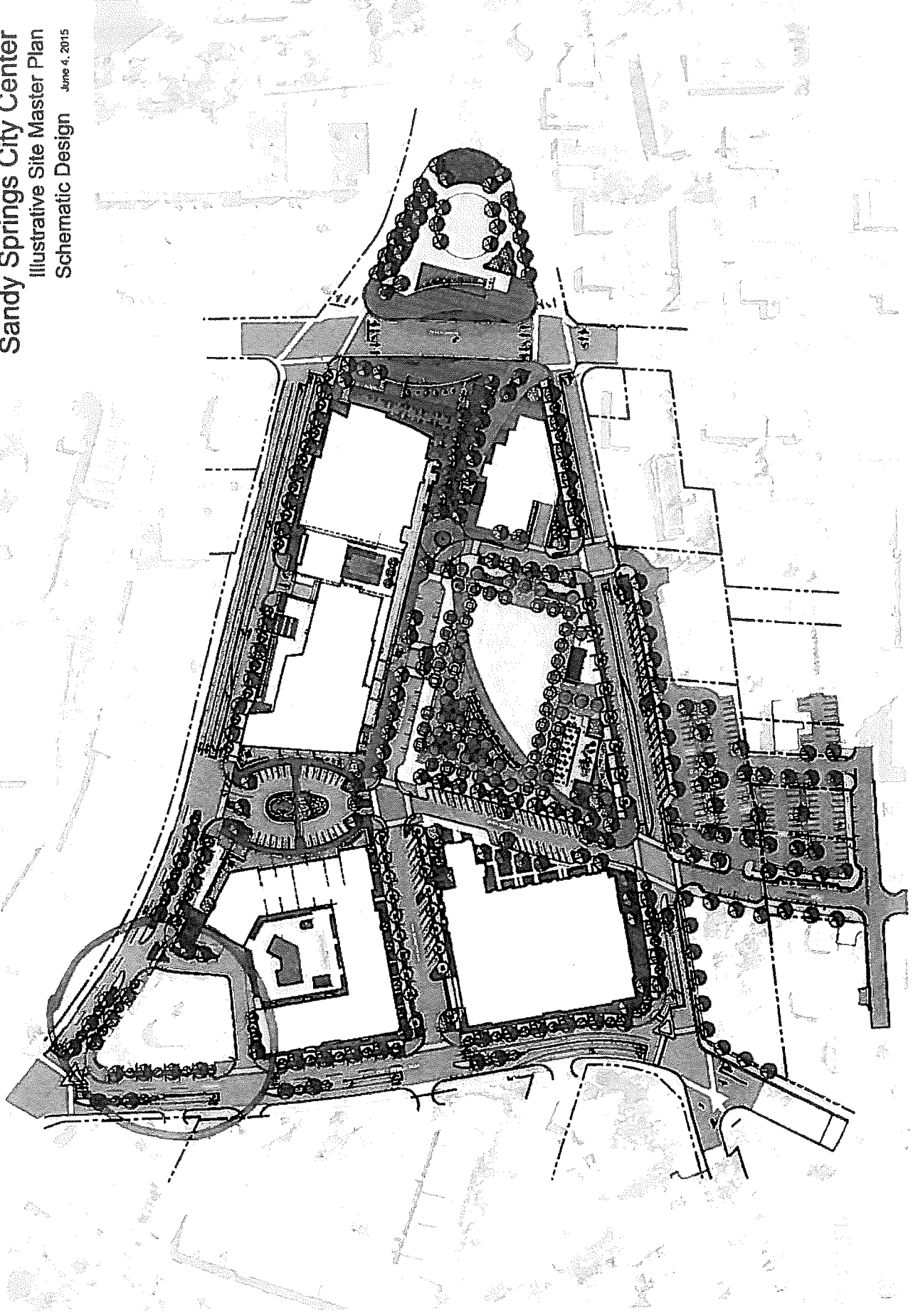


EXHIBIT B

**SITE PLAN A
PREPARED BY jB+a
Dated September 25, 2015**

EXHIBIT B

EXHIBIT C

**PROPERTY SURVEY
PREPARED BY SAMUEL G. EVANS, JR.
Dated September 16, 1980**

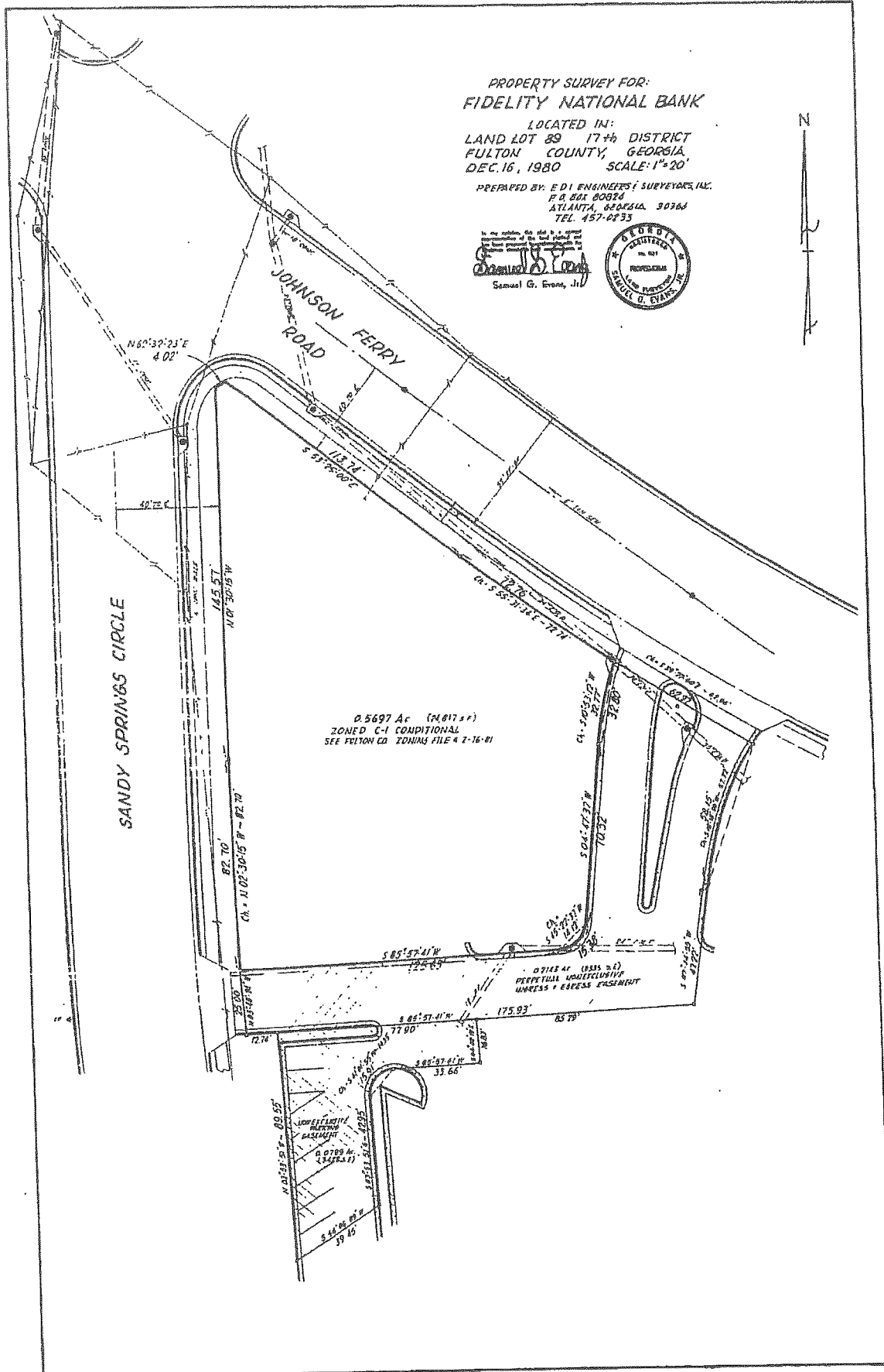
EXHIBIT C

PROPERTY SURVEY FOR:
FIDELITY NATIONAL BANK

LOCATED IN:
LAND LOT 89 17th DISTRICT
FULTON COUNTY, GEORGIA
DEC. 16, 1980 SCALE: 1"=20'

PREPARED BY: EDI ENGINEERS & SURVEYORS, INC.
P.O. BOX 60024
ATLANTA, GEORGIA 30364
TEL. 457-6733

In my opinion, this plan is a correct
and true statement of the facts
as shown by the survey.
Signed: Samuel G. Evans, Jr.
Surveyor



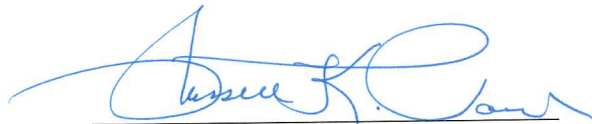
2. The City Manager and the City Attorney are hereby authorized to proceed with finalizing a formal agreement between the City and the Bank based on the terms of the LOI and the City Manager is hereby authorized to execute the same; and

3. The formal agreement between the City and the Bank shall be provided to Council at the next Council meeting following execution, and the City Manager or the City Attorney shall inform Council regarding substantive changes made to the LOI since adoption of this resolution which are incorporated into the formal agreement; and

4. The City Manager and City Attorney are hereby authorized to take any and all other steps which may be necessary to effectuate the intent of this Resolution.

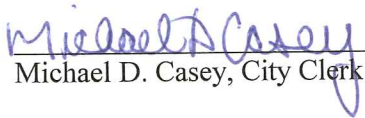
RESOLVED this the 6th day of October, 2015.

Approved:



Russell K. Paul, Mayor

Attest:


Michael D. Casey, City Clerk

(Seal)

